TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101

Prepared by: Ingrid Allen, Planner II

SUBJECT: Quasi Judicial Hearing: Variance, V 2-2-06 Rousseau, 2461 SW 131

Terrace, Generally located on the west side of SW 131 Terrace,

approximately 330 feet north of SW 26th Street.

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM: V 2-2-06 Rousseau, 2461 SW 131 Terrace (A-1)

REPORT IN BRIEF: The petitioner is requesting to reduce the required side setback of the A-1, Agricultural District, by 5.1' in order to allow the construction of a 1,377 sq. ft. addition on the northwest corner of the existing single-family residence. Section 12-287 (B) of the Land Development Code requires a minimum 30' side setback from the property line in the A-1, Agricultural District.

The petitioner is requesting to reduce the side setback from 30' to 24.9'. The justification by the petitioner for this variance is that the existing home was been built with a 24.9' side setback and therefore the proposed addition should be constructed in line with the existing home. Residential homes approved and/or built prior to the adoption of the Rural Lifestyle Initiative (RLI) regulations had a twenty-five (25) foot side setback.

According to §12-287 (A) and (B) of the Land Development Code, the A-1 zoning district requires the following minimums: lot area of 35,000 square feet, 140' lot frontage, 40'-50' front setback, 30' side setbacks, 35' rear setback, 35' maximum height and 25% maximum building coverage.

PREVIOUS ACTIONS: At the May 17, 2006 Town Council meeting, V 2-2-06 Rousseau was tabled to June 7, 2006 (Motion carried 5-0).

At the June 7, 2006 Town Council meeting, V 2-2-06 Rousseau was tabled to July 19, 2006 (Motion carried 5-0).

At the July 19, 2006 Town Council meeting, V 2-2-06 Rousseau was tabled to September 20, 2006 (Motion carried 5-0).

CONCURRENCES: At the April 26, 2006 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Ms. Stenzel-Nowicki, to table V 2-2-06 Rousseau to May 10, 2006. (Motion carried 4-0).

At the May 10, 2006 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Ms. Stenzel-Nowicki, to table V 2-2-06 Rousseau to June 14, 2006. (Motion carried 4-0).

At the June 14, 2006 Planning and Zoning Board meeting, Ms. Turin made a motion, seconded by Ms. Stenzel-Nowicki, to table V 2-2-06 Rousseau to August 23, 2006. (Motion carried 4-0 as Mr. Stevens was out of the room).

At the August 23, 2006 Planning and Zoning Board meeting, Vice-Chair McLaughlin made a motion, seconded by Mr. Stevens to approve contingent upon a drainage plan to be presented to the Town Engineer or inherent department for approval and a landscaping plan to be reviewed by the Site Plan Committee. (Motion carried 4-0).

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to the Town Council for further consideration.

Attachment(s): Planning Report, Justification letter, HOA letter, Survey, Site Plan, Future Land Use Plan Map, Zoning and Aerial Map

Application: V 2-2-06 Rousseau **Revisions:** 8/28/06, 8/3/06,

7/5/06, 6/9/06, 5/4/06

Exhibit "A" Original Report Date: 3/31/06

TOWN OF DAVIE

Development Services Department Planning and Zoning Division Staff Report and Recommendation

Applicant Information

Owner: Petitioner:

Name: Hugues G. Rousseau Name: Hollingsbrook & Mather Inc.

Wes Curran, Agent

Address: 2461 SW 131 Terrace **Address:** 10693 Wiles Road # 208

City: Davie, FL 33325 City: Coral Springs, FL 33076

Phone: (954) 734-5888 **Phone:** (954) 323-8913

Background Information

Date of Notification: April 19, 2006 Number of Notifications: 81

Application History: None

Application Request: Variance **FROM:** Section 12-287(B) of the Land Development Code,

which requires a minimum 30' side setback from the property line in the A-1, Agricultural District; **TO:** reduce the north side setback to 24.9' so that an addition may be constructed on the northwest corner of the

residence in line with the 24.9' side setback of the existing home.

Address/Location: 2461 SW 131 Terrace/Generally located on the west side of SW 131

Terrace, approximately 330 feet north of SW 26th Street.

Future Land Use

Plan Map Designation: Residential (1 DU/AC)

Zoning: A-1, Agricultural District

Existing Use: Single-family residential dwelling unit

Parcel Size: approximately 37,154 square feet

Surrounding Future Land Use Plan Map

Designations:

Residential

Residential (1 DU/AC)Residential (1 DU/AC)Residential (1 DU/AC)

(1 DU/AC)

Surrounding Uses:

North: Single family dwelling Single family dwelling South: Single family dwelling East: West: Single family dwelling

Surrounding Zoning:

North: A-1, Agricultural District **South:** A-1, Agricultural District A-1, Agricultural District East: West: A-1, Agricultural District

Zoning History

Plat: The subdivision plat, Emerald Springs Homes of Davie, was approved by Town Council on March 21, 1990 and was later recorded by the County in Book 149 of plats at page 48 of the public records of Broward County, Florida.

Site Plan: The site plan, SP 9-2-93 Emerald Springs Homes of Davie, was approved by Town Council on October 20, 1993.

Related Variance Requests: The Variance, V 8-1-96 Emerald Springs Homes of Davie, Inc., from: Section 12-81(A) of the Land Development Code that was applicable at the time of the site plan approval for Emerald Springs Homes of Davie which requires a side yard setback of 25' in the A-1 district; to: reduce the required side yard setback to 23.69' along the east side of Lot 63; and from Section 12-81 (A) which requires a side yard setback of 25' in the A-1 district; to: reduce the required side yard setback to 23' along the west side of Lot 63, was approved by Town Council on September 20, 1996.

The Variance, V 1-3-02 Glantz, from Section 12-81A of the Land Development Code that was applicable at the time which required a 25' minimum side yard setback; to reduce the minimum to 13.79' in order to allow the addition of a recreation room on the southwest corner of the residence, was approved by Town Council on May 15, 2002.

Application Details

The petitioner has requested a variance from Section 12-287 (B) of the Land Development Code, which requires a minimum 30' side setbacks in the A-1, Agricultural District; to reduce the north side setback of the property to 24.9' so that an addition may be constructed in line with the side setback of the existing home. At the time of site plan approval the side setback in the A-1, Agricultural District was 25'. The adoption of the Rural Lifestyle Initiative changed the minimum side setback in the A-1, Agricultural District to 30'.

Applicable Codes and Ordinances

§12-24 (I)(1) Agricultural (A-1) District: The A-1 district is intended to implement the Agricultural and Residential one (1) unit per acre classifications of the Town of Davie Comprehensive Plan and to maintain, protect and encourage the continuance of a productive agricultural community in Davie by ensuring that developments are buffered from existing agricultural uses.

Article IX. Rural Lifestyle Regulations, Ordinance No. 2002-35, adopted on October 16, 2002.

DIVISION 3. RURAL LIFESTYLE DEVELOPMENT REGULATIONS

§12-287 (A) and (B) of the Land Development Code, for the A-1 zoning district, indicates that the minimum lot area shall be 35,000 square feet, the minimum lot frontage is 140', and maximum building coverage is 25%. The building setbacks shall be as follows for the A-1 zoning district: front 40'-50', side 30', rear 35', and 35' maximum height.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 2. Planning Area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 113.

Applicable Goals, Objectives & Policies: Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-3: Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Staff Analysis

The petitioner's request is to reduce the required north side setback of the A-1, Agricultural District by 5.1' in order to allow the construction of a 1,377 sq. ft. addition that would maintain the side setback of the existing 4,219 sq. ft. single family home. The addition, contains (2) bedrooms, two (2) bathrooms and a family room which will make the home a total of 5,596 sq. ft. well below the maximum lot coverage of 25% or 9,289 sq. ft. of building permitted on this site.

The petitioner has obtained an approval letter (see Exhibit 2) from the Emerald Springs Homes of Davie Home Owners Association. The justification by the applicant for this variance is that the existing home has been built with a 24.9' side setback. In review of the survey, staff concludes that while it may seem logical to build an addition in line with an existing structure, the parcel and existing home can accommodate an addition with a 30' side setback.

Residential homes approved and/or built prior to the adoption of the Rural Lifestyle Initiative (RLI) regulations in the Emerald Springs subdivision currently have a 25' side setback. In the A-1, Agricultural District, the RLI provides for 30' side setbacks creating a 60' separation between all new structures. The adjacent property to the north did receive approval from Town Council on May 30, 2002 for a Variance (V 1-3-02) from Section 12-81A of the Land Development Code reducing the 25' minimum side yard setback to 13.79' in order to allow the addition of a recreation room on the southwest corner of the residence. As of result, granting a north side setback variance from 30' to 24.9' to allow an addition on the northwest side of the property would result in maintaining approximately 39' separation between structures.

Findings of Fact

Variances:

Section 12-309(B) (1):

The following findings of facts apply to the variance request:

(a) There <u>are no</u> special circumstances or conditions applying to the land or building for which the variance is sought;

The 37,154 sq. ft. parcel and existing home can support an addition that does not require a variance. While the design of the addition logically aligns with the existing side setback of 24.9', a plan that includes all of the desired amenities can be designed with a 30' side setback.

which circumstances or conditions <u>are not</u> peculiar to such land or building and <u>do</u> apply generally to land or buildings in the same district;

The required 30' side setback applies equally to properties within this development and within the A-1, Agricultural zoning district.

and that said circumstances or conditions <u>are not</u> such that the strict application of the provisions of this chapter <u>would not</u> deprive the application of the reasonable use of such land or building for which the variances are sought;

The parcel is being reasonably used now without a variance, and an addition can be constructed at the required 30' side setback.

and that alleged hardship is self-created by any person having an interest in the property.

The need for a variance is created by the owner's desire for an addition in line with the existing home.

(b) The granting of the variance <u>is not</u> necessary for the reasonable use of the land or building and that the variance as requested <u>is</u> the minimum variance that will accomplish this purpose.

This parcel is being reasonably be used now; however the request is the minimum needed to allow an addition that is in line with the existing home.

(c) Granting of the requested variances <u>will be</u> in harmony with the general purpose and intent of this chapter and <u>will not</u> be injurious to the neighborhood or otherwise detrimental to the public welfare.

The intent of the Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal. Allowing the north side setback to be reduced from 30' to 24.9' to construct the proposed addition may not be detrimental to the adjacent property to the north although the next closest structure would be approximately 39 feet from the proposed addition. This 39' separation is a result of Town Council approval for a Variance (V 1-3-02) of the adjacent property to north whereby the required 25' minimum side yard setback was reduced to 13.79' in order to allow the addition of a recreation room on the southwest corner of the residence.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board Recommendation

At the April 26, 2006 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Ms. Stenzel-Nowicki, to table V 2-2-06 Rousseau to May 10, 2006. (Motion carried 4-0).

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Town Council Action

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Exhibits

- 1. Justification
- 2. HOA Letter
- 3. Survey
- 4. Site Plan
- 5. Future Land Use Plan Map
- 6. Zoning and Aerial Map

| Prepared by: | Reviewed by: |
|--------------|--------------|
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Hollingsbrook & Mather, Inc.

100% Wines Road #208 Coral Springs Pt 13e a

Salac (154) 123-86 (3

February 17, 2006

Ingrid Allen Town of Davie Planning and Zoning Division Development Services Department

Request for side set-back zoning variance

Subject Property:

2461 SW 131 Terrace Lot 46 EMERALD SPRINGS HOMES OF DAVIE

Dear Ingrid Allen

Zoning Variance Justification Letter

We hereby request that a variance be granted for the parcel above referenced to a side yard set-back of 24.9° from the property line. The reason for this request is to permit the construction of an addition to an existing single family residences on the property.

We believe that our request is I keeping with the letter and spirit of the Town's Code of Ordinances as

- 1) There are special circumstances or conditions applying to the land or building for which the variance is
 - The community was built based upon a side yard set-back requirement of 24.9° and that the setback requirements where subsequently changed, and
 - b) These circumstances or conditions are peculiar to this community at large as all homes in this subdivision are currently built to within 24.9° of their property line, and
 - c) That the strict application of the current zoning set-back requirement would deprive the applicant of the reasonable use of their property for which the variance is sought, and
- d) This condition is not self-created by any person having an interest in the property.
 The granting of the variance is necessary for the reasonable use of the property and that the variance as requested is the minimum variance that will accomplish the home owner's purpose.
- 3) The granting of the variance will be in keeping with the spirit of the Town's codes as it is not the Town's intent to deprive the Owner of reasonable use of his property through down zoning.
 - a) Further we state that granting the variance will cause no injury to the neighbors as all other properties in the community are already built to the set-back being requested.
- 4) The proposed change will not negatively impact living conditions in the area.
- 5) The proposed change does not constitute a special grant or privilege.

As such, please find our application for variance affixed, and thanks in advance for your prompt attention

Sincerely,

Wesley Curran, PBD, CGC

As agent for Owner

Commercial, Residential, Design, Build-Outs, Remodeling

FROM:

Emerald Springs Homes of Davie

Home Owners Association

Architectural Review Board/Committee

RE:

Side yard set back variance request.

Zoning Variance for 25' side set back in lieu of current zoning setback of 30'

Homeowner/Association Member making request:

Name:

Hugues and Marilyn Rousseau

Address:

2461 SW 131 Terrace Davie, Florida

Legal:

EMERALD SPRINGS HOMES OF DAVIE 149-48 B LOT 46

Property ID:

5040 14 11 0460

TO:

Whom it may concern:

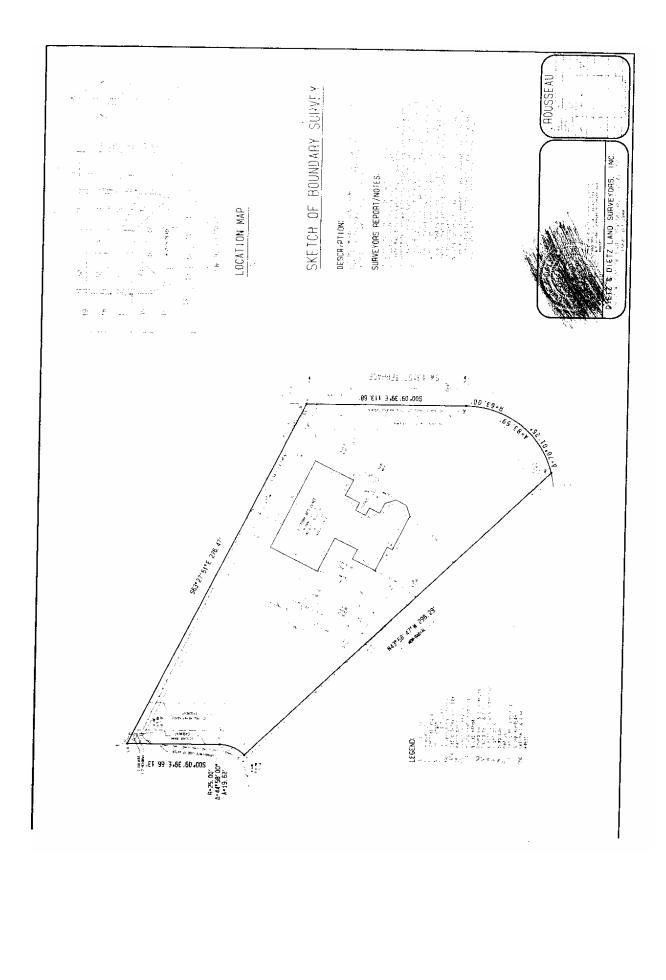
We the board of the Emerald Springs Subdivision hereby accept and approve of the above referenced, homeowner's zoning variance request to permit a side yard set back of no greater than twenty five feet (25 ft.).

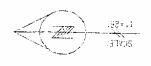
To this we hereby set our hand and seal this ______ day of July, 2006

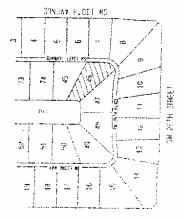
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_______ day of July, 2006

_______ Association President or Secretary







LOCATION MAP

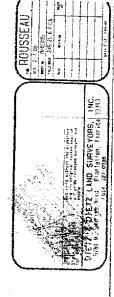
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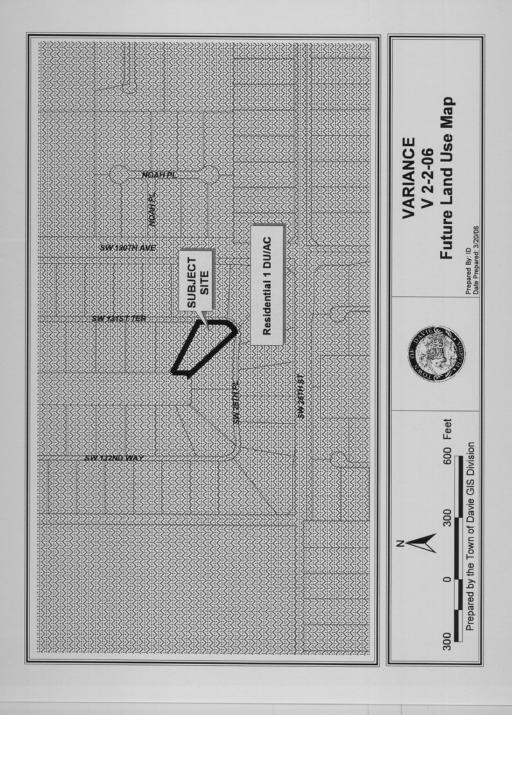
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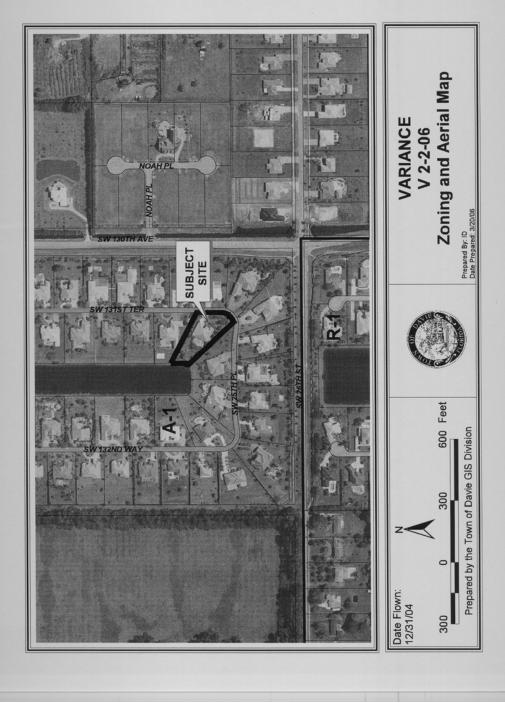
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